REMARKS

Applicants reply to the Final Office Action dated August 7, 2006 within three months. Applicants request an Advisory Action, if necessary. Claims 1-47 are pending in the present Office Action. Claims 1, 14, 26 and 37 are independent. No claims have been amended. Reconsideration of this application is respectfully requested.

The Examiner rejects claims 1-47 as being anticipated by Ishibashi, U.S. Patent No. 6,728,379 ("Ishibashi"). Applicants respectfully traverse this rejection.

Applicants strongly assert that Ishibashi fails to teach or suggest at least, "a first contents key generation section for generating the contents key based on a second decryption limitation obtained by updating a first decryption limitation," as similarly recited by independent claims 1, 14, 26 and 37. In particular, as previously argued, Ishibashi merely discloses that the key generation section 14 generates the content encryption key Kce and content decryption key Kcd (see, for example, col. 4, line 66 - col. 5, line 4 and col. 8, lines 44-45 of Ishibashi), but how these keys are actually generated by the key generation section 14 has <u>not</u> been found to be disclosed by Ishibashi. Therefore, the key generation section 14 of Ishibashi has <u>not</u> been found to generate "contents key <u>based on a second decryption limitation</u> obtained by updating a first decryption limitation" (emphasis added) as similarly recited by independent claims 1, 14, 26 and 37.

The Examiner alleges that the generation of the content encryption key Kce and content decryption key Kcd by the key generation section 14 is disclosed by Ishibashi at column 6, lines 1 to 20. However, Applicant again argues that such portion referred to by the Examiner has <u>not</u> been found to support such an allegation. In particular, such portion simply discloses the situation when purchased content data is digitally copied at the user-side information processor 100, a copy control code is added to the decrypted content decryption key Kcd, and the copy control code is rewritten to a state that the content data may not be copied. However, <u>no key</u> has been found to be generated <u>based on a second decryption limitation</u> obtained by updating a first decryption limitation, as similarly recited by independent claims 1, 14, 26 and 37. **Applicants respectfully request that the Examiner clearly identify which key in Ishibashi the Examiner alleges to be generated based on an update of the copy control code.**

Further, Applicants assert that the Examiner is trying to explain the generation of keys from the key generation section 14 by referring to column 6, lines 1-20 which describes a copy control management performed by the user-side information processor 100 (see page 2 of the

Office Action). That is, Applicants fail to see why the Examiner assumes that the key generation section 14 generates keys based upon a copy control management performed by the user-side information processor 100. Ishibashi has not been found to disclose such teachings and the Examiner appears to be relying upon impermissible hindsight. One cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention; *In re Mercier*, 185 U.S.P.Q. 774, 778 (CCPA 1975) (all the relevant teaching of the cited reference must be considered in determining what they fairly teach to one having ordinary skill in the art) (emphasis original).

Applicants also assert that Ishibashi fails to teach or suggest at least, "a second contents key generation section for generating the contents key from the second decryption limitation," as similarly recited by independent claims 1, 14, 26 and 37. The Examiner alleges that the content key decryption section 131 is analogous to the "second contents key generation section" as recited in claim 1. Applicants assert that Ishibashi has only been found to disclose a content key decryption section 131 that decrypts the encrypted content decryption key by using the distribution decryption key Kdd and the storage decryption key Ksd (see, for example, col. 10, lines 42-48 of Ishibashi). **Importantly, however, Ishibashi has not been found to teach or suggest that the content key decryption section 131 performs decryption based on a copy control scheme, as alleged by the Examiner.** Further, as previously argued, the copy control scheme as alleged by the Examiner has only been found to be performed (by the copy controller 137) after the content key decryption section 131 performs decryption. Therefore, **it is illogical for the content key decryption section 131 to perform decryption based on the copy controller 137,** and such allegation by the Examiner is inconsistent with the teaching of Ishibashi.
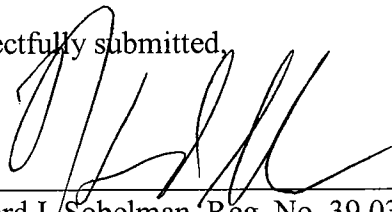
Applicants also assert that Ishibashi does not disclose or suggest at least "the encryption device includes ... a first contents key generation section for generating the contents key based on a second decryption limitation ... and ... a decryption device includes a second contents key generation section for generating the contents key from the second decryption limitation," (emphasis added) as similarly recited by independent claims 1, 14, 26 and 37. That is, Ishibashi has not been found to disclose a first contents key generation section in an encryption device and a second contents key generation section in a decryption device that both generates a contents key based on the second decryption limitation.

Dependent claims 2-13, 15-25, 27-36 and 38-47 variously depend from independent claims 1, 14, 26 and 37, so Applicants assert that dependent claims 2-13, 15-25, 27-36 and 38-47 are differentiated from the cited reference for at least the same reasons as set forth above, in addition to their own respective features.

If the Examiner still believes that Ishibashi teaches or suggests each and every feature as recited in the pending claims, Applicants respectfully request that the Examiner <u>substantively</u> comment on the points raised by Applicants in this Reply. Without the Examiner's substantive comments, Applicants find it difficult to understand why the Examiner has maintained the rejections. Applicants also respectfully request that the Examiner <u>consider the references as a whole</u>, and it is well established that it is <u>impermissible to pick and choose</u> only so much as will support a given position to the exclusion of other parts necessary to the full appreciation of what such reference fairly teaches or suggests. *Bausch & Lomb, Inc. v. Barnes-Hind/Hydrocurve*, 230 U.S.P.Q. 416, 419 (Fed. Cir. 1986) (*citing In re Wesslau*, 147 U.S.P.Q. 391, 393 (CCPA 1965)). See also, *In re Fritch*, 23 U.S.P.Q.2d 1780, 1783-84 (Fed. Cir. 1992). In deciding the issue of anticipation, the trier of fact must identify the elements of the claims, determine their meaning *in light of the specification* and prosecution history, and identify *corresponding elements* disclosed in the allegedly anticipating reference (emphasis added, citations in support omitted).

Applicants respectfully submit that the pending claims are in condition for allowance. No new matter is added in this Reply. Reconsideration of the application is thus requested. The Commissioner is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account No. 19-2814. Applicants invite the Examiner to telephone the undersigned, if the Examiner has any questions regarding this Reply or the present application in general.

Respectfully submitted,

Dated: November 2, 2006   By: _____
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